

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

DAVID ALLEN COMPANY

and

Case 5-CA-26464

INTERNATIONAL UNION OF BRICKLAYERS AND
ALLIED CRAFTSMEN, LOCAL OF MARYLAND,
VIRGINIA AND DISTRICT OF COLUMBIA, AFL-CIO

Brenda Harris, Esquire of Baltimore, Maryland for
the General Counsel.

Thomas H McQuad of Upper Marlboro, Maryland
for the Charging Party.

Jonathan Greenbaum, Esquire and *Victoria L.
Botvin, Esquire (Krupin, Greenbaum &
O'Brien, L.L.C.)* of Washington, D.C. for
the Respondent.

DECISION AND CERTIFICATION

CHARNO, *Administrative Law Judge*:

This case was tried before me in Washington, D.C. on November 3-5, 1997. After oral argument, I issued a bench decision pursuant to Section 102.35(a)(10) of the Board's Rules and Regulations. Appendix A is the portion of the transcript containing my decision, while Appendix B contains corrections to that transcript. In accordance with Section 102.45 of the Board's Rules and Regulations, I certify the accuracy of the amended transcript containing my decision. Based on the findings of fact and conclusions of law contained therein and upon the entire record in this case, I issue the following recommended:¹

¹ If no exceptions are filed as provided by Section 102.46 of the Board's Rules and Regulations, the findings, conclusions and recommended Order shall, as provided in Section 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

ORDER

The Complaint issued in this case is dismissed.

5 Done at Washington, D.C., this 26th day of November, 1997.

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Steven M. Charno
Administrative Law Judge

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APPENDIX B

Transcript Corrections

5				
	<u>Page</u>	<u>Line</u>	<u>Delete</u>	<u>Insert</u>
	406	11	Virginia. Which	Virginia, which
	406	13	tile	tile,
10	406	21	AFL-CIO	AFL-CIO,
	406	25	Johnny“Johnny”	
	407	2	211	2(11)
	407	3	213	2(13)
	407	5	it’s --	
15	407	18	prohibitive	probative
	407	25	convinced	convince
	408	1	a	the
	408	1	sum	sum,
	408	4	10. And	10, and
20	408	9	based	based exclusively
	408	16	the	
	408	21	testimony	observation
	409	3	more	Moore
	409	4	prohibitive	probative value
25	409	5	report	report,
	409	8	husband and	husband, an
	409	9	Respondent	Respondent,
	409	19	211	2(11)
	409	22	employees,	employees
30	409	25	mutually	mutual
	410	4	discrimantees	discrimantees
	410	4	applied to Respondent -- pardon, me, ever	
	410	7	John	Johnny
35	410	8	for	from
	410	10	discrimantees	discrimantees
	410	15	with	directly with
	410	19	that first	that, first,
	410	21	and second	and, second,
40	411	2	aware	already aware
	411	3	the	such a
	411	5		Also parenthetically, it should be noted that I reject Johnny Moore’s testimony that the alleged discriminatees were offered and declined employment with Respondent. It strains judicial credulity to believe that men who were admittedly seeking below-scale employment would reject a chance at the same employment paying prevailing wage rates.
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	411	13	the	the identity of the
	411	14	complaint	complaint against Moore Ceramic Tile

	411	17	hire	hire,
	411	17	of	by
	411	19	whether an unfair labor practice	
	411	20	for an --	
5	411	25	by	with
	411	25	In the	Given General Counsel's
	412	1	absence of	failure to cite
	412	2	and	under
	412	4	employer	employer of proven animus
10	412	8	discriminatees	discriminatees
	412	10	discriminatees	discriminatees
	412	16	get	set

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